

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
PARIS DIVISION

FEB 03 1997

BY DAVID J. MALAND, CLERK
DEPUTY

LINDA FREW, ET AL.,
Plaintiffs,

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V.

CIVIL ACTION NO. 3:93CV65

MICHAEL McKINNEY, ET AL.
Defendants.

DEFENDANTS' MONITORING REPORT, JANUARY 1997

TO THE HONORABLE JUDGE JUSTICE:

Pursuant to Paragraph 306 of the Consent Decree, Defendants file their Monitoring Report, attached as Exhibit A, and incorporated by reference.

Respectfully submitted,

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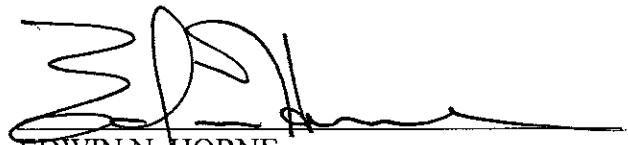
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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Defendants' Monitoring Report, January, 1997 has been served on this the 30th day of January, 1997, on the following counsel of record:

Susan F. Zinn
Attorney at Law
P.O. Box 15126
San Antonio, Texas 78212

(VIA FIRST CLASS MAIL)



EDWIN N. HORNE
Assistant Attorney General

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1997 LAWSUIT ACTION ITEMS
Updated January 29, 1997

Action	Deadline	Status
1. This paragraph does not preclude the development of new Medicaid card formats in the future as contemplated by Paragraph #304. #18		At the request of the Plaintiffs, the Department has agreed to re-evaluate the new MEDICAID ID form which was implemented in November 1996. Evaluation will include client and/or provider intercept interviews, focus group testing and possibly surveys. The Department's target date for completion of the research design is February 1997. The design will be furnished to the Plaintiffs for review prior to implementing the evaluation project.
2. Maintain a list of recipients for whom no dental check up bill has been received no more than 60 days after the check up was due. # 41	Beginning May, 1997	Completed. Based on this list, the Department began mailing letters from TDH central office to clients who were overdue for their dental check-up in December 1996. Samples of the letters (Exhibit A) were forwarded to the Plaintiffs on January 13, 1997.
3. List recipients who require outreach because of missed check ups in the geographic area served by each outreach unit. # 44 Dental only	Provided monthly to outreach units.	Effective December 17, 1996, geographic listings of the clients overdue for their dental check-ups are being electronically downloaded on a monthly basis to each Texas Department of Health (TDH) regional office.

EXHIBIT

A

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Action	Deadline	Status
<p>4. Defendants will develop and implement a method that reports the number and percent of recipients who receive medical and or dental check ups after receipt of oral outreach. # 61</p>	<p>By September 1, 1996</p>	<p>A copy of the first report was provided to the Plaintiffs on October 21, 1996 (Exhibit B). No follow-up discussions have been held between the parties since that time. In the interim, the Department has now been experiencing serious technical data migration problems with the data entry system used by regional THSteps outreach workers to enter the client contact information required for these reports. TDH automation staff continue to research solutions for resolving this data migration problem. On January 27, 1997 the Plaintiffs were notified of this problem and provided with a proposal for a revised report methodology once the necessary data information becomes available.</p>

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Action	Deadline	Status
<p>5. Defendants may conduct other appropriate, aggressive outreach efforts to encourage recipients to use EPSDT services. # 64</p>		<p>Following are some examples of Regional THSteps outreach efforts:</p> <ul style="list-style-type: none"> * Provided THSteps packets to Salvation Army's Angel Tree participants in the northern regions. Reached more than 1096 families with 3031 children. * THSteps participation at "Fiesta Campesina" giving program information/making appointments - attendance 2000 farm workers. * 52 churches contacted in East San Antonio to reach a population historically difficult to monitor. Churches pledged to maximize publication of THSteps assistance as part of their social service program efforts. * 47 social service organization field offices visited to promote THSteps for Medicaid families. * Outreach coordination with "Any Baby Can" Christmas project - 178 families received THSteps information. * Home visits to parents of newborns - providing education on THSteps, MTP and BBTD. Public school presentations to pregnant girls on Medicaid, BBTD, HMO's managed care etc. * Collaboration with Texas Children's Hospital Pediatric Associates and Hospital Emergency - placement of THSteps workers as component of the patient management process.
<p>6. The tracking system for progress towards completion of all immunizations will be in place and running. #91</p>	<p>By January, 1996</p>	<p>An ImmTrac system installed in all TDH regional headquarters. The system now piloting in 3 private physician offices (Austin-2, Waco-1). Project staff waiting on completion of system enhancement - on line upgrade - before proceeding further. Also, contractors working on a software package called "KIDS"- a stand alone immunization tracking system for private practitioners.</p>

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Action	Deadline	Status
<p>7. Defendants will maintain updated lists of providers who serve EPSDT recipients. The lists will specify practitioners' practice limitations, if any. Defendants will provide to appropriate NHIC staff information about provider practice limitations and encourage NHIC to use the information. # 93</p>		<p>An automated provider "LOOKUP" dbase installed at each TDH regional headquarters. Software allows regions to input their provider base and identify individual provider limitations, office hours, language spoken, alternate locations, etc. See Exhibit C for the screen prints on the "LOOKUP" system.</p>
<p>8. Defendants will implement a method to index the reimbursement rate for medical check ups in non-managed care areas. The indexing method will cause the reimbursement to change in accordance with a methodology developed by TDH. # 99</p>	<p>By September 1, 1997</p>	<p>This has been completed. A copy will be forwarded to the Plaintiffs by February 1, 1997.</p>
<p>9. Defendants will conduct an initiative to orally inform pharmacists about EPSDT's coverage. # 130-3</p>		<p>A 4 part pharmacists training plan was forwarded to Plaintiffs on 12/16. (Exhibit D). Implementation in progress on part # 1.</p>

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Action	Deadline	Status
<p>10. Effort to recruit family planning clinics to provide EPSDT medical check ups will be coordinated with TDH's family planning. #139 - 3</p>		<p>An article appeared in the June/July 1995 Texas Medicaid Bulletin entitled "EPSDT Enrollment Initiative for Family Planning Agencies" encouraging agencies to enroll as EPSDT medical check-up providers. On November 13, 1995 a letter was mailed to all family planning providers over the Family Planning Director's signature. A TDH workgroup is reviewing the development of procedure codes to allow payment for THSteps medical check-ups or adolescent preventive health visits concurrent with the family planning annual exam visit. These codes would need to meet the requirements of both program standards and allow the family planning visit to be expanded to include the additional protocols required for THSteps services at the same visit without duplication of same. The workgroup is determining the feasibility of implementing these codes and the impact on managed care. The Plaintiffs furnished with a progress report on December 17, 1996. (Exhibit E)</p>
<p>11. TDH will recruit ISD's to provide EPSDT medical and dental check ups and coordinate other needed services. TDH will emphasize the development of centers to address the needs of pregnant teenagers in school districts that are interested in developing this resource for their students. #141</p> <p>12. TDH will cooperate with HeadStart programs to ensure that HeadStart students who are EPSDT recipients have access to EPSDT services. #142</p>		<p>A draft of a revised regional THSteps monthly state office report format sent to each THSteps regional managers for review/comments 1-14-97 (Exhibit F). The revised standardized format includes specific reporting on ISD & Headstart activities facilitating regular feedback to Plaintiffs on Department's efforts. Regions will begin submitting revised reports in March 1997 for February 1997 activities.</p>

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Action	Deadline	Status
<p>13. Defendants will conduct outreach to families with EPSDT recipient infants. (Baby Bottle Tooth Decay). # 148</p>	<p>Beginning January, 1996</p>	<p>BBTD outreach has begun in TDH Region 8 and 6. Monthly outreach letters are being mailed to 10 month old infants. Under development is an outreach and informing letter to be mailed from state office to pregnant women (Exhibit G).</p> <p>* A BBTD brochure has been developed, printed and distributed to both THSteps staff in the regions for use in working with clients and to NHIC staff for use with dental providers. Also produced as a companion client access marketing piece is a children's toothbrush which is also being distributed to TDH regional staff for use in outreach, etc.</p> <p>* A new initiative called Baby Bottle Tooth Decay/Tooth White Spot Awareness campaign has been started - plus a regional standardization of the dental message. A progress report on this activity furnished to the Plaintiffs on January 27, 1997 (Exhibit H).</p>
<p>14. Review billing records to determine if number of dentists who regularly provide sealants increase. # 161</p> <p>Dentists who do not provide sealants will receive further targeted outreach information about sealants unless their specialty indicates that they would not provide this service.</p>	<p>May 1, 1996</p>	<p>Completed.</p> <p>Dentists not providing sealants were identified (345) and sent an educational letter on sealants dated December 31, 1996, accompanied by an article on guidelines for sealant use (Exhibit I).</p>
<p>15. Defendants will maintain reports of the number and percent of participating dentists who see 0-29, 30-99 and 100 + EPSDT recipients every 3 months. # 165</p>	<p>Beginning October 31, 1995</p>	<p>Plaintiffs provided with a dental provider participation report for FY '96 over a letter dated December 17, 1996 (Exhibit J). Quarterly reports for FY '96 are now being prepared by the Department's health insuring agent. First report is expected by late January, 1997.</p>

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Action	Deadline	Status
16. Defendants will prepare a report of the number and percent of recipients who receive 1 dental check up/year and 2 dental check ups/year. # 171	By September 30, 1996	Report has been completed, is being analyzed and will be forwarded to the Plaintiffs by late January, 1997.
17. Parties will agree on expected increase in the number and percent of recipients who receive 1 and 2 dental check ups/year. # 172	By December 1, 1996	Deferred, pending receipt of the reports referenced in Item # 16.
18. Defendants will arrange for a study to assess the dental health of the EPSDT population. Study will evaluate improvements in the number and percent of recipients who 1) have no cavities, 2) have no untreated cavities and 3) require hospital treatment for dental problems. Subject to Plaintiffs approval. # 174	By March 1, 1996	The Department's first RFP developed in preparation for contracting for this study was rejected by the Plaintiffs. A new RFP has now been developed and sent to the Plaintiffs for review (Exhibit K).
19. Defendants will begin migrant program in Lower Rio Grande Valley. Later, they will expand appropriate outreach efforts for farmworker families to other areas of the state as needed. # 180	In 1995	During summer of 1995, TDH Region 11 obtained a listing of children who's families were identified as migrant farm workers from the TDHS dbase. Using this list, targeted outreach was accomplished. Initially, it was felt this method would be used state-wide. Later it was learned the TDHS Migrant farm worker information was not consistently available outside Region 11. Subsequently an alternative plan is being developed, to use data available from education service centers (ESCs) and school districts. (Region 11 will continue to use TDHS generated migrant listings complimented with the information available through ESC, and school districts.)

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Action	Deadline	Status
<p>20. Defendants will make efforts to help farmworker families to utilize EPSDT benefits promptly upon return to Texas. Efforts will include door to door outreach in communities where farmworkers live. # 181</p>		<p>TDH plans to use an existing nationwide program operated by the Federal Migrant Education Program known as the "Bolsa Roja" or "Red Bag" program. Whenever migrant farm worker children are identified by the school they are provided with a red bag. This bag is used to transport all of the children's records (Health & Education). When the child moves, the school places the child's documents in this bag. The "Red Bag" program also provides parenting skills/health education. A worker from the school district is requested to conduct a home visit annually. Records of their home visits are maintained. TDH will explore a MOU with TEA that will institutionalize this process with ESC to deliver THSteps information. Further, TDH will actively solicit cooperation from the related professional organizations generally involved with migrant issues.</p>
<p>21. Outreach units will give priority status to migrant farmworkers who request outreach services. They will provide outreach quickly as possible. # 183</p>		<p>During the THSteps orientation program with the ESCs and school districts, they will be provided with the 1-800 number for assistance in obtaining THSteps services. Outreach staff have been sensitized to the unique needs of the children of migrant farm workers. Outreach workers have already established migrant contacts as a priority.</p>
<p>22. TDH will assure by various means that managed care organizations arrange appropriate training for all health care providers and their staff who serve EPSDT recipients as authorized by SB 601. # 194</p>		<p>The Department responded to the Plaintiff's about training providers in managed care on December 11, 1996 (Exhibit L). There remains some bonafide disagreements between the parties on the meaning of paragraph #194. At the December 18, 1996 negotiation meeting it was agreed the Department would provide plaintiffs with a proposal on how they intend to meet the requirements of paragraph # 194. That proposal is now being prepared to send to the Plaintiffs.</p>

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Action	Deadline	Status
23. Efforts to inform teens and their parents about EPSDT will address the complex privacy and consent issues involved. # 207		Department staff is actively working on the communication method to bring this to the recipients attention (Exhibit M).
24. TDH and DPRS MOU will establish a method to report the number and percent of EPSDT recipients under the supervision of DPRS who receive all of their medical and dental check ups when due. # 212-3		See Exhibit N for the current status. Furnished to the Plaintiffs on January 13, 1997.
25. Conduct annual assessments of the effectiveness of the transportation program. # 223	By March 1996 each year.	A transportation program evaluation was completed by the Department but rejected by the Plaintiffs. Two new RFPs to contract for new evaluations have been completed and forwarded to the Plaintiffs for review on January 22, 1997 (Exhibit O). On January 15, 1997, an offer was made to the Plaintiffs to suggest person(s) to serve on the Department's proposal selection committee.
26. Defendants method for evaluating the transportation system will be subject to Plaintiffs approval. # 227		See Status comments on Item # 25.
27. Toll free numbers for EPSDT recipients will be staffed sufficiently by well trained personnel. No calls may be "answered" by a tape recording during working hours except in unusual circumstances. # 247		A monitoring plan to assure compliance with #247 has been implemented and shared with the Plaintiffs (Exhibit P).

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Action	Deadline	Status
28. Parties will complete a case management plan for the EPSDT program. # 264	By January 31, 1996	Proposed agency rules on case management have been furnished to the Plaintiffs. Discussions and correspondence continues between the parties. The Department is now carefully evaluating the Plaintiffs latest comments received January 7, 1997. Have provided an interim response (Exhibit Q).
29. Defendants will finalize medical case management regulations and implement the program. # 270	By September 1, 1996	
30. Defendants will conduct 2 analyses. They will measure the percent of EPSDT recipients who receive medical check ups and 2 dental check ups/year in each county or county cluster. # 277	Beginning 1997	The statewide analysis will contain this information. See item #31.
31. Complete a statewide analysis every year by March 30, identifying the counties or county clusters lagging behind the state average for medical check-ups beginning in 1996, and medical and/or dental check-ups beginning in 1997. # 280	Beginning in 1997	1996 report completed and furnished to Plaintiffs (FY '95 data). The Department is currently working on the 1997 report.
32. Defendants will report EPSDT participation statistics to the Federal Government on the HCFA form 416. # 283	Every year from 1996-1999	HCFA 416 report completed in FY '96 for client participation statistics in FFY '95 were furnished to the Plaintiffs October 1996. The statistics for FFY '96 will not be finalized until the end of the next quarter.
33. Defendants will also report to Plaintiffs the number and percent of recipients who receive all of their scheduled medical and dental check ups. # 284	Def will provide these reports to the Plaintiffs no later than Dec. 31, of each year.	The Department's proposal for meeting Paragraph 284 was presented and discussed at the December 18, 1996 negotiation meeting. The Department is in hopes that the parties are in agreement on the methodology.

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Action	Deadline	Status
<p>34. Parties will further agree on a target goal for each health outcome indicator. # 294</p> <p>35. Defendants will report the best available information on each health indicator annually. # 295</p>	Beginning September 1, 1996 annually thru 1999	Pending - See item # 36
<p>36. Defendants will present their proposed methodology for studies to evaluate the health of the EPSDT population. # 295</p>	By April 1, 1996	<p>For four of the outcome measures data was available from TDH programs (hearing, lead, low birth, prenatal). The methodology for these measures accompanied by the data for FY '94 and FY '95 is now being compiled/prepared for submittal to the Plaintiffs. On the remaining 9 health indicators/health outcome measures, epidemiology and physician staff are now refining their definitions. The data for these measures will be obtained using a client medical chart review process. The Department has contracted with Professor John Eltinge at Texas A&M to define the sampling methodology, which has been delayed, pending completion of the definitions. Staff hopes to have their definitions fully completed by 2-17-97 to share with both the Plaintiffs and Professor Eltinge.</p>
<p>37. Defendants will develop corrective action plans to improve the results for each health outcome indicator developed to serve as a proxy to measure whether recipients receive the full range of services that they need. These CAPs will be presented for Plaintiffs review and comment by 1/30 each year. # 296</p>	By January 30, each year	Deferred pending completion of the data collection.

Dates subject to change per agreement by both parties.

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